

**FOR MORE INFORMATION,
PLEASE CONTACT:**

Third Party Liability Unit
Lien and Estate Recovery
P.O. Box 202953
Helena MT 59620-2953

1-800-694-3084

Alternative accessible formats of this brochure will be provided upon request.

For further information, contact your local Information and Assistance Program at 1-800-551-3191 or the Senior and Long Term Care Division at 1-800-332-2272.

You can also visit our website at www.dphhs.mt.gov/sltc to print out this information.

2,000 copies of this public document were published at an estimated cost of \$0.11¢ per copy, for a total cost of \$220.00, which includes \$220.00 for printing and \$0.00 for distribution.

Montana Medicaid Lien & Estate Recovery Program

1 Medicaid is a joint federal/state program that provides medical aid for those individuals who are unable to pay for their own medical expenses. To qualify for Medicaid, an individual must have limited income and resources.

In recent years, Medicaid spending has been increasing at rates far greater than the rate of inflation. Congress recognized the need to limit such growth in Medicaid spending and passed the Omnibus Budget Reconciliation Act of 1993.

Federal law requires the State of Montana to recover costs of medical services provided to individuals by placing a claim against the estate of certain Medicaid recipients at the time of their deaths. Those Medicaid recipients subject to estate recovery are:

- Residents of nursing homes
- Residents of medical facilities such as Montana State Hospital and Montana Developmental Center
- Individuals age 55 and older

An estate is the property, both real estate and personal property, owned by the person at the time of their death including:

- Property reported in probate
- Solely owned property
- Property not reported in probate
- Property owned in joint tenancy, and
- Property owned in tenancy-in-common

2 Nursing home resident personal needs cannot be used for funeral expenses; however individuals not residing in a nursing home (institutional) setting may use such funds, subject to probate law.

Recovery includes:

- Unused balances in the Medicaid recipient's checking or savings accounts
- Personal funds kept in a resident's account if residing in an institution
- Unused burial funds from a burial contract in excess of \$5,000

Example: *Mr. Roberts left his only property, a house valued at \$75,000, to his son. At the time of his death, Medicaid had provided \$24,000 for his nursing home care. In addition to this claim, there was a total of \$10,000 in funeral bills and cost for probating his estate. Mr. Roberts' son received \$41,000 (\$75,000 - \$24,000 - \$10,000 = \$41,000) after all the claims were paid.*

Medical services that will be recovered include:

- Health insurance premiums (including Medicare);
- Nursing home services;
- Home and community based services;
- Hospital services;
- Prescription drug services, and
- All other Medicaid covered services.

There are two types of estate recovery:

1. Recovery is made by filing a claim against the recently deceased Medicaid recipient's estate in an amount equal to, but not to exceed, the medical expenses paid by Medicaid while the recipient was residing in the community or in a medical facility.



Recovery is not attempted if Medicaid is notified that

- The recipient has a surviving spouse;
- The recipient has a surviving child who is under age 21; or
- Has a surviving blind or permanently disabled child of any age.

2. Recovery is made by placing a lien on real estate owned by a Medicaid recipient in a **nursing home or medical facility** in an amount equal to, but not exceeding, medical expenses paid by Medicaid. Liens are not placed on property if the person is not in an institutional living arrangement.



The state may place a lien on the **nursing home or institutionalized** recipient's home when there is not a reasonable expectation that the nursing home resident will return home within six months.



The lien would not be enforced if Medicaid is notified of:

- A surviving spouse;
- A child under 21;
- A disabled child of any age;
- A brother or sister with an ownership interest in the home who is residing in the home, and who has lived in the home for at least one year before the recipient entered the nursing home;
- The property is tribal trust property and improvements (buildings, other attachments) to tribal trust property, or income earned from tribal trust property; or
- The recipient is discharged from the nursing home and returns to his/her home.

Example: *Mary, a single adult, lived in the nursing home for three years prior to her death. A lien was placed on her home to recover medical services paid by the State of Montana. During the probate of her estate, the home is sold, and the lien to the State is satisfied from the proceeds of the sale of the home.*

Heirs, if they wish, can retain the home by paying the lesser of:

- The amount the State of Montana is entitled to recover, or
- The fair market value of the home

Hardship: *Once notification of a claim against the estate has been received, the heirs can request a hardship exemption. Recovery will not be pursued if it would cause undue hardship for the heirs. If action is taken to recover Medicaid paid expenses from an estate, the heirs may ask to have the recovery amount waived, reduced or dismissed based on hardship*

All requests will be considered and arrangements will be made if a true undue hardship exists.

Note: Undue hardship waivers can only be requested when the State files a creditor's claim. Thus, there is no undue hardship waiver for recoveries from personal needs accounts and funeral trusts.

Burial Contract: A Medicaid recipient is also allowed to pay into a burial account and/or purchase a burial contract.

The provisions concerning these accounts are:

- **Any funds remaining from a burial account, established at eligibility cannot exceed \$1500. The burial account provides for the actual burial and/or headstone.**

Medicare Savings Programs: Recovery also applies to services received under the Qualified Medicare Beneficiary Program (QMB), Special Low Income Medicare Beneficiary Program(SLMB), and Qualifying Individual Program (QI).